



County of Los Angeles  
**CHIEF ADMINISTRATIVE OFFICE**

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DAVID E. JANSSEN  
Chief Administrative Officer

June 2, 2003

To: Supervisor Yvonne Brathwaite Burke, Chair  
Supervisor Gloria Molina  
Supervisor Zev Yaroslavsky  
Supervisor Don Knabe  
Supervisor Michael D. Antonovich

From: David E. Janssen  
Chief Administrative Officer

Board of Supervisors  
GLORIA MOLINA  
First District

YVONNE BRATHWAITE BURKE  
Second District

ZEV YAROSLAVSKY  
Third District

DON KNABE  
Fourth District

MICHAEL D. ANTONOVICH  
Fifth District

**MOTION TO SUPPORT AB 1432 (FIREBAUGH) -- CRIMINAL PROSECUTION IN CALIFORNIA (ITEM NO. 8, AGENDA OF JUNE 3, 2003)**

Item No. 8 on the June 3, 2003 Agenda is a motion by Supervisor Antonovich to support AB 1432 (Firebaugh), and to send a five signature letter of support to Governor Davis, the Senate President Pro Tempore, Assembly Speaker, Senate and Assembly Minority Leaders, and the Los Angeles County Legislative Delegation.

AB 1432 failed passage from the Assembly Appropriations Committee on May 28, 2003.

As amended on May 14, 2003, AB 1432 would have allowed a district attorney to prosecute a person who had been acquitted or convicted under the laws of another country for a crime committed in California. The bill also would have entitled a person who had been acquitted or convicted in another country for a crime committed in California to receive credit for any time served in a penal institution in the other country, if they were convicted in California.

The Federal and State Constitutions prohibit double jeopardy. The United States Supreme Court has determined that jeopardy does not attach to a defendant who has been convicted or acquitted in a foreign country and subsequent prosecution in the United States or its territories does not violate the double jeopardy clause. However, each state may increase double jeopardy protections beyond those afforded by either constitution. By statute, California provides greater protection against double jeopardy by prohibiting prosecution of those who have been convicted or acquitted in a foreign country. AB 1432 removes this statutory protection.

The District Attorney, the sponsor of AB 1432, indicates that a person who is accused of committing a serious crime in California and flees to Mexico will receive preferential treatment compared to those who remain in California. Those who flee to Mexico may either be prosecuted in Mexico or extradited. If they are prosecuted in Mexico, California district attorneys are barred from prosecuting the defendant. If extradition is sought, the Mexican government requires judicial assurances guarantying the defendant will not face life imprisonment or the death penalty. If assurances are granted, the defendant receives partial immunity from state laws. A recent Assembly Public Safety Committee analysis of AB 1432 noted that the existing statutes were enacted in 1872 and have remained unchanged for 130 years. The District Attorney concludes that the existing law creates an incentive for defendants to flee the country because they will benefit by either avoiding prosecution in California or receiving partial immunity from California's laws.

Under AB 1432, a defendant who flees California would have had the same rights as any defendant who commits a crime in California. A defendant who voluntarily returned to California after being convicted or acquitted of the crime by another jurisdiction would have been subject to the penalties provided under California law and would have received full credit for time served in a penal institution.

The District Attorney's legislative staff indicates that they intend to seek reintroduction of AB 1432 next year. The Sheriff will support the District Attorney's effort to reintroduce the measure because it will allow prosecution of defendants who have fled and returned to California, and facilitates equal treatment of all defendants. **Therefore, the District Attorney recommends that the County support AB 1432 in order to establish Board policy to support reintroduction of the measure. Because there is no existing Board policy regarding protections against double jeopardy in California, a position on AB 1432 is a matter for Board policy determination.**

AB 1432 was supported by the California Narcotic Officers' Association, the Government Relations Oversight Committee, the Association for Los Angeles Deputy Sheriffs, Los Angeles County Probation Officers Union, Los Angeles Police Protective League and the Riverside Sheriff's Association. It was opposed by the California Attorneys for Criminal Justice.

DEJ:GK  
MAL:JL:lm

c: Executive Officer, Board of Supervisors  
County Counsel  
District Attorney  
Sheriff